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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/490,868	01/24/2000	Sam E. Kinney JR.	ARIBP018	7745
21912 7590 04/24/2009 VAN PELT, YI & JAMES LLP 10050 N. FOOTHILL BLVD #200 CUPERTINO, CA 95014				
EXAMINER				
FELTEN, DANIEL S				
ART UNIT		PAPER NUMBER		
3696				
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04/24/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/490,868

Applicant(s)

KINNEY ET AL.

Examiner

DANIEL S. FELTEN

Art Unit

3696

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 19-22, 24-27 and 38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8, 7, 19-22, 25-26 and 38 is/are rejected.
- 7) ☒ Claim(s) 6, 9, 24 and 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Receipt of the Request for Continued Examination (RCE) filed February 05, 2009 is acknowledged. Claims 1-9, 19-22, 24-27 and 38 are pending in the application and are presented to be examined upon their merits.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-5, 8, 7, 19-22, 25-26 and 38 were ejected under 35 U.S.C. 102(e) as being anticipated by CARLTON-FOSS (US 6,647,373).

Re claim 1: CARLTON-FOSS discloses method of conducting an electronic online auction between a plurality bidders (see CARLTON-FOSS, Abstract), comprising:

(a) receiving a plurality of bids from bidders (see CARLTON-FOSS, abstract, column 3, lines 14-37; esp. lines 23-30);

(b) determining, using a computer (see fig. 5) (134) (*Bid Ranking Manager*), a rank for each bid in the plurality of bids (see CARLTON-FOSS, column 3, lines 14-37, esp 35-37; and column 7, lines 32 to column 8, line 29, esp. column 8, lines 15-29); and

(c) for each bid, displaying the rank determined in (b) to the bidder who made the bid: and not displaying the value of any other bids (see CARLTON-FOSS, column 8, lines 15-29)

Re claims 2 and 20: wherein the ranking in (b) determines an ordinal rank for each bid that is displayed to the bidder in (c) (see CARLTON-FOSS, figs. 12 (b) and fig. 15, “bids Ranked by Percent Fit to Specification, column 8, lines 15-29).

Re claim 3 and 21: wherein (b) comprises ranking bids in accordance with the price of the bids (see CARLTON-FOSS, column 11, lines 10-84, esp. lines 21-35).

Re claim 4: further comprising transforming a bidder comparative bid parameter into a comparative bid parameter for the originator of the auction.

Re claim 5: wherein (a) comprises receiving transformed bid information (see CARLTON-FOSS, abstract, column 3, lines 14-37; esp. lines 23-30).

Re claim 7 and 25: further comprising transmitting the rank to the bidder (see CARLTON-FOSS, column 3, lines 14-37, esp. 35-37; and column 7, lines 32 to column 8, line 29, esp. column 8, lines 15-29)

Re claim 8 and 26: further comprising (b) and (c) as new bids are received (see CARLTON-FOSS, abstract, column 3, lines 14-37; esp. lines 23-30).

Re claim 19: A system for processing the bidding information in an electronic auction amongst a plurality of bidders, comprising:

an interface configured to receive a plurality of bids from bidders (see CARLTON-FOSS, Abstract, column 3, lines 14-67, esp., lines 3-30; and lines 38+);

a processor (134) configured to determine a rank means ranking for each bid in the plurality of bids and for each bid, cause the rank to be displayed to the bidder who made the bid, and the value of any other bids to not be displayed (see . CARLTON-FOSS, “bid-ranking manager,” column 8, lines 15-24)

Re claim 22: wherein the processor is further configured to a bidder comparative bid parameter into a comparative bid parameter for the originator of the auction displayed (see . CARLTON-FOSS, “bid-ranking manager,” column 8, lines 15-24).

Re claim 38 A computer program product for conducting an electronic online auction between a plurality of bidders, the computer program product being embodied in a computer readable storage medium and comprising instructions which when executed cause a processor to: receive a plurality of bids from bidders (see CARLTON-FOSS, abstract, column 3, lines 14-37; esp. lines 23-30); determine a rank for each bid in the plurality of bids(see CARLTON-FOSS, abstract, column 3, lines 14-37; esp. lines 23-30); and for each bid, display the determined rank to the bidder who made the bid, and not display the value of any other bids (see CARLTON-FOSS, abstract, column 3, lines 14-37; esp. lines 23-30).

Allowable Subject Matter

4. Claims 6, 9, 24 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL S. FELTEN whose telephone number is (571)272-6742. The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dixon can be reached on (571) 272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Primary Examiner
Art Unit 3696

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